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ORDINANCE AMENDING TITLE 1 (ADMINISTRATION) CHAPTER 16 (PROCUREMENT) SECTIONS 1-16-3, 1-16-7, and 1-16-8 REGARDING AUTHORIZATION AND METHODS FOR PROCUREMENTS)

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WHEREAS, the Illinois Compiled Statutes, including the Illinois Municipal Code, regulate purchases and contracts entered into by the Village of Orland Park, a home-rule municipality; and

WHEREAS, such Statutes grant to the Village the authority and discretion to determine rules and regulations for Village contractual, financial, or service based relationships with the Village; and

WHEREAS, the Village recognizes that full transparency and accountability in governmental operations are essential to maintaining public trust and confidence; and

WHEREAS, the Village Board finds it necessary to strengthen its procurement code and ethics requirements by adding regulations concerning explicit disclosure of business relationships between vendors and Village officials, including elected and appointed officials, directors, heads of departments, and their spouse or domestic partners; and

WHEREAS, the Illinois Governmental Ethics Act (5 ILCS 420/) provides that certain elected municipal office holders, candidates, officials and employees are required to file a Statement of Economic Interests; and

WHEREAS, the Village Board further finds that disclosures from both vendors and officials regarding a conflict of interest of a financial interest and/or appearances of impropriety will mitigate both actual and perceived conflicts and strengthen the integrity of Village procurement and decision making.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1:

Title 1 (Administration), Chapter 16 (Procurement) Section 1-16-3 (Authorization and Methods for Procurement), Subsection 1-16-3 (B)(2) shall hereby be amended in part as follows (additional language marked by underlining and deletions marked with strikethrough) as follows:

1-16-3: AUTHORIZATION AND METHODS FOR PROCUREMENTS:

The Village Manager and Director of Finance are authorized to enter into contracts on behalf of the Village as provided in this section as well as Chapter 1-7 (ADMINISTRATIVE OFFICERS OF THE VILLAGE) and Chapter 1-10 (VILLAGE FINANCES). Village Board approval is required for contracts that are not within the

approval authority of the Village Manager or Director of Finance. Unless provided otherwise by this Code or specially authorized by law, the methods set forth in Subsections A (Competitive bidding), B (Competitive proposals), C (Small purchases), D (Sole-source procurement), E (Emergency procurements) of this section shall apply to contracts.

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B. Competitive proposals. Solicitation of competitive proposals is a procurement option allowing the award to be based on an evaluation process using stated criteria to arrive at a contract that will be the most advantageous to the Village.

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(2) Conflicts of Interest. Proposers shall comply with Section 1-16-17 when completing the proposal process as part of their required submission.

(3) General RFQ or RFP process. Proposals generally shall be solicited through an RFQ or RFP as follows:

(a) Public notice of the request for proposals/qualifications shall be given within a reasonable time, not less than ten calendar business days prior to the date set forth therein for the opening of the proposals. The Procurement Officer shall designate a means of distribution of information to interested parties using methods that are reasonably available. Such advertisement shall be posted on the Village's website, transmitted or communicated (electronically or otherwise) to appropriate trade organizations and bid management service providers or transmitted electronically to those known to the Procurement Officer as potential proposers, or published in a local paper of general circulation. The notice shall state the place, date, and time proposals are due.

(b) Submission of proposals. Proposals must be submitted in sealed envelopes. All proposals shall be handled so that the identity of the proposers and the contents of the proposals remain confidential during the process of negotiation. A register of proposals shall be prepared containing the name of each proposer, the number of modifications to a proposal received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after the conclusion of negotiations and award of a contract.

(c) Evaluation factors. The request for proposals shall state the relative importance of price and other evaluation factors, such as expertise, experience, management skills, staffing, references, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

(d) Discussion with responsible proposers and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of

the identity of competing proposers or of any information derived from proposals submitted by competing proposers.

(e) Award. Award shall be made to the responsible proposer whose proposal is determined to be the most advantageous to the Village, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

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SECTION 2: Title 1 (Administration), Chapter 16 (Procurement), shall hereby be amended by creating a new Subsection 1-16-17 to read as follows:

1-16-17: VENDOR DISCLOSURES OF BUSINESS RELATIONSHIPS:

A. Definitions.

“Appearance of Impropriety” includes circumstances that would lead a reasonable person to believe a conflict exists, even if there is not actual conflict.

“Business Relationship” includes relationships between vendors and the official, their spouse or domestic partner, or any entity in which they have a financial interest, if the relationship entitles them to compensation, economic opportunity, or payment in excess of \$7,500 annually. A Business Relationship does not include a political contribution, otherwise duly reported as required by law.

“Business Relationship Disclosure Form” includes the form to be completed by the vendor disclosing any business relationship to the Procurement Officer.

“Compensation” includes any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by themselves or another.

“Economic Opportunity” includes any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein an Official may gain an economic benefit.

“Official” includes any person (and their spouse or domestic partner) employed for the village as a director, department head, Chief of Police, or person elected and/or appointed into an elected position for the Village.

“Payment” includes the act of paying or a sum of money paid to settle a debt or in exchange for goods or services.

“Political Contribution” includes any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise, for purposes of influencing in any way the outcome of any election in accordance with the Illinois Election Code.

“Vendor” includes any person or entity seeking to enter or currently in a contractual, financial, or service-based relationship with the Village, including Architects, Engineers, and Land Surveying Services set forth in § 1-16-8.

- a. All vendors shall also comply with the conflict-of-interest requirements set forth in § 1-16-16-A and 1-16-16-B (1-3).

B. General Disclosure Requirement. Any vendor seeking to enter a contractual or financial relationship with the Village shall disclose any actual or potential conflict of interest, financial interest, business relationship, or appearance of impropriety in connection with the proposed transaction. This requirement applies to all contracts, agreements, grants, concessions, land sales, leases, and other matters subject to Village approval when compensation is greater than \$7,500.00 annually.

- (1) Submission of a disclosure does not preclude a vendor from being awarded a contract, grant, concession, land sale, lease or other matters subject to the Village approval.

- (2) Vendors shall promptly file a written disclosure via “Business Relationship Disclosure Form” to the Procurement Officer on the submission of the bid or proposal, or as soon thereafter as the vendor becomes aware of the business relationship.

- a. An “Amended Business Relationship Disclosure Form” shall be submitted by the vendor to the Procurement Officer as soon thereafter as the vendor becomes aware of any business relationships after submitting its initial form.

C. Business Relationships with Officials. To avoid even the appearance of impropriety, any vendor who has had any business relationship within the preceding ten years or reasonably expects such a relationship in the following twelve months with a current official or a past official during the preceding 10 years, where such relationship resulted in or is expected to result in financial benefit, shall disclose the following if the relationship entitled the current or past official to compensation, economic opportunity, or payment in excess of \$7,500 annually:

- (1) The name of the official or related party;
- (2) The nature of the business relationship with the Official;
- (3) The date(s) of engagement or expected engagement [month/year];
- (4) If the vendor has been acquired or purchased within the preceding five years:
 - a. The date(s) of acquisition of the vendor; and
 - b. The name(s) of the preceding vendor, if changed.

D. Posting and Review.

The Procurement Officer shall review vendor disclosures to determine sufficiency and may request additional information if necessary. The vendor shall have not less than ten days from such request to cure any defect in the disclosure. The Procurement Officer shall provide the disclosure to the Village Board for review and decision making on the next steps of the disclosure. The Village Board may post vendor conflict disclosures on a publicly accessible website in a searchable format.

E. Penalties against Vendors. Any vendor who fails to submit required disclosures, submits incomplete or misleading information, or otherwise violates this section may be subject to:

- (1) Oral or written warnings or reprimands.
- (2) Disqualification from the bidding process.
- (3) Suspensions under § 1-16-15.
- (4) Termination of any existing contract and or transactions with the Village.
- (5) Prohibition from contracting with the Village for up to five (5) years.
- (6) In addition to the above remedies, vendors shall be subject to a fine of not less than \$500 and not more than \$2,000 for failing to provide additional details regarding the disclosed conflict of interest or business relationship if requested by the Procurement Officer. Each day a violation continues constitutes a separate and distinct offense to which a separate fine shall apply.

An official decision shall be made by the Village Board and will include information regarding the appeal process.

F. Appeal. Vendors may appeal the Penalties against Vendors by filing a written notice of appeal in the office of the Village Clerk within five days. The notice of appeal must state each position and reason of the vendor in support of the appeal. The Village Board shall consider the appeal and, considering all of the facts, circumstances, shall deny the appeal, grant the appeal, or grant such other relief as the Village Board determines is appropriate. The Village Board, as part of its decision, may decrease or increase the length of any suspension. The Village Board shall memorialize its decision in writing and promptly provide a copy of its decision to the vendor. The decision of the Village Board is final.

SECTION 3: Title 1 (Administration), Chapter 16 (Procurement), shall hereby be amended by creating a new Subsection 1-16-18 (Disclosures of Business Relationships) to read as follows:

1-16-18: OFFICIALS' DISLCOSURES OF BUSINESS RELATIONSHIPS:

- A. Definitions. For purpose of this section, see definitions from 1-16-16A (1-4).
- B. General Disclosure Requirement. Any official who becomes aware of a contractual or financial relationship with a vendor shall disclose any actual or potential conflict of

interest, financial interest, business relationship, or appearance of impropriety in connection with the proposed vendor's transaction. This requirement applies to all contracts, agreements, grants, concessions, land sales, leases, and other matters subject to Village approval when compensation is greater than \$7,500.00 annually but excludes political contributions under Article 9 of the Illinois Election Code (10 ILCS 5/art.9).

(1) Officials shall promptly file a written disclosure to the Procurement Officer on the submission of the bid or proposal, or as soon thereafter as the official becomes aware of the business relationship.

C. Business Relationships with Vendors. To avoid even the appearance of impropriety, any official who has had any business relationship within the preceding ten years or reasonably expects such a relationship in the following twelve months with a vendor, where such relationship has resulted in or is expected to result in financial benefit, shall disclose the following if the relationship entitled the official to compensation, economic opportunity, or payment in excess of \$7,500 annually:

- (1) The name of the vendor or related party.
- (2) The nature of the business relationship with the vendor;
- (3) The date(s) of engagement or expected engagement [month/year];

D. Posting and Review.

The Village Procurement Officer shall review each official's disclosures to determine sufficiency and may request additional information if necessary. The official shall have not less than ten days from such request to cure any defect in the disclosure. The Procurement Officer shall provide the disclosure to the Village Board for review and decision making on the next steps of the disclosure. The Village Board may post official's conflict disclosures on a publicly accessible website in a searchable format.

(1) Submission of a disclosure is providing full transparency to the Village by the official and does not preclude an Official from retention of their current position within the Village.

E. Penalties against Officials. Any current official who fails to submit required disclosures, submits incomplete or misleading information, or otherwise violates this section may be subject to:

- (1) Oral or written warnings or reprimands.
- (2) Termination of employment.
- (3) In addition to the above remedies, officials shall be subject to a fine of not less than \$500 and not more than \$2,000 for failing to provide additional details regarding the disclosed conflict of interest or business relationship if requested by the Procurement Officer. Each day a violation continues constitutes a separate and distinct offense to which a separate fine shall apply.

An official decision shall be made by the Village Board and will include information regarding the appeal process.

F. Appeal. Officials may appeal the Penalties against Officials by filing a written notice of appeal in the office of the Village Clerk within five days. The notice of appeal must state each position and reason of the official in support of the appeal. The Village Board shall consider the appeal and, considering all of the facts, circumstances, shall deny the appeal, grant the appeal, or grant such other relief as the Village Board determines is appropriate. The Village Board shall memorialize its decision in writing and promptly provide a copy of its decision to the official. The decision of the Village Board is final.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.